

REMARKS/ARGUMENTS

Applicants would like to thank the Examiner for the careful consideration given the present application. The application has been carefully reviewed in light of the Office Action, and the following remarks are presented for the Examiner's consideration.

Claims 9–20 are rejected under 35 USC 103(a) as being unpatentable over Inoue et al. (U.S. Patent No. 6,729,532). Applicants respectfully disagree for at least the following reasons. Independent claim 9, from which claims 10-19 depend, includes in part a grouping means for classifying and grouping the element shape and position data into data groups which are grouped according to a grouping condition to identify at least one data group according to the grouping condition apart from other data group than the data group grouped. Similarly, independent claim 15, from which claims 16-20 depend, recites that element shape and position data which correspond to a plurality of pattern holes is grouped into at least one data group which is grouped according to a grouping condition apart from other data group, wherein the grouped data is identified by the grouping condition.

As acknowledged by the Examiner in the Office Action, Inoue et al. does not explicitly disclose or teach finding a shape of the electrode group, as is described in the rejected claims. Rather, the Examiner states that one of ordinary skill in the art would be motivated by Inoue et al. to cure this deficiency. However, Inoue et al. is not citable prior art with respect to the present application. The following is a quotation of 35 U.S.C. §103(c) which forms at least one basis for withdrawal of all rejections in this Office action:

(c) Subject matter developed by another person, which qualifies as prior art only under subsection (e), (f), and or (g) of section 102 of

this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.


The subject matter of Inoue et al. and the claimed invention were, at the time the invention was made, subject to an obligation of assignment to Matsushita Electric Industrial Co., Ltd. Therefore, Inoue et al. is not a citable reference with respect to the subject application and the rejection should be withdrawn.

Claims 1-8 are rejected under 35 USC 103(a) as being unpatentable over Tsujikawa (U.S. Patent No. 5,991,435) in view of Inoue et al. (U.S. Patent No. 6,729,532) and official notice. As mentioned above, Inoue et al. is not a citable reference under 103(c). Tsujikawa, as recognized by the Examiner does not teach or suggest each and every element of the claimed invention. Accordingly, the rejection should be withdrawn.

In light of the foregoing, it is respectfully submitted that the present application is in condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge them to our Deposit Account No. 16-0820, our Order No. NGB-35948.

Respectfully submitted,
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